

GENERAL ORDINANCE NO. 39-09

AN ORDINANCE
AMENDING CHAPTER 27
AND CHAPTER 28,
GREEN BAY MUNICIPAL CODE,
REGARDING GRAFFITI

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 27.101, Green Bay Municipal Code, is amended by adopting by reference Section 943.017, Wis. Stats., regarding graffiti:

943.017 Graffiti. (1) Whoever intentionally marks, draws or writes with paint, ink or another substance on or intentionally etches into the physical property of another without the other person's consent is guilty of a Class A misdemeanor.

(2) Any person violating sub. (1) under any of the following circumstances is guilty of a Class I felony:

(a) The property under sub. (1) is a vehicle or a highway, as defined in s. 943.01 (2) (a) 1., and the marking, drawing, writing or etching is of a kind which is likely to cause injury to a person or further property damage.

(b) The property under sub. (1) belongs to a public utility or common carrier and the marking, drawing, writing or etching is of a kind which is likely to impair the services of the public utility or common carrier.

(c) The property under sub. (1) belongs to a person who is or was a grand or petit juror and the marking, drawing, writing or etching was caused by reason of any verdict or indictment assented to by the owner.

(d) If the total property affected in violation of sub. (1) is reduced in value by more than \$2,500. For the purposes of this paragraph, property is reduced in value by the amount which it would cost to repair or replace it or to remove the marking, drawing, writing or etching, whichever is less.

(e) The property affected is on state-owned land and is listed on the registry under s. 943.01.

(2m) (a) In this subsection:

1. "Family member" means a spouse, child, stepchild, foster child, treatment foster child, parent, sibling or grandchild.

2. "Witness" has the meaning given in s. 940.41 (3).

(b) Whoever does any of the following is guilty of a Class I felony:

1. Intentionally marks, draws or writes with paint, ink or another substance on or intentionally etches into, or threatens to mark, draw or write on or etch into, any physical property owned by a person who is or was a witness by reason of the owner having attended or testified as a witness and without the owner's consent.

2. Intentionally marks, draws or writes with paint, ink or another substance on or intentionally etches into, or threatens to mark, draw or write on or etch into, any physical property owned by a family member of a witness or by a person sharing a common domicile with a witness by reason of the witness having attended or testified as a witness and without the owner's consent.

(3) (a) In addition to any other penalties that may apply to a crime under this section, the court may require that a convicted defendant perform 100 hours of community service work for an individual, a public agency or a nonprofit charitable organization. The court may order community service work that is designed to show the defendant the impact of his or her wrongdoing. The court shall allow the victim to make suggestions regarding appropriate community service work. If the court orders community service work, the court shall ensure that the defendant receives a written statement of the community service order and that the community service order is monitored.

(b) Any individual, organization or agency acting in good faith to whom or to which a defendant is assigned pursuant to an order under this subsection has immunity from any civil liability in excess of \$25,000 for acts or omissions by or impacting on the defendant.

(c) This subsection applies whether the court imposes a sentence or places the defendant on probation.

(d) If the defendant is not placed on probation and the court orders community service work, the court shall specify in its order under this subsection the method of monitoring the defendant's compliance with this subsection and the deadline for completing the work that is ordered. The court shall inform the defendant of the potential penalties for noncompliance that would apply under s. 973.07.

(4) If more than one item of property is marked, drawn or written upon or etched into under a single intent and design, the markings, drawings or writings on or etchings into all of the property may be prosecuted as a single crime.

(5) In any case under this section involving more than one act of marking, drawing, writing or etching but prosecuted as a single crime, it is sufficient to allege generally that unlawful marking, drawing or writing on or etching into property was committed between certain dates. At the trial, evidence may be given of any such unlawful marking, drawing, writing or etching that was committed on or between the dates alleged.

SECTION 2. Section 27.615, Green Bay Municipal Code, is hereby created as follows:

27.615 GRAFFITI REMOVAL.

(1) "Graffiti" is defined as any phrase or symbol intentionally marked, drawn or written with paint, ink or another substance on or intentionally etched into the physical property of another without the other person's consent.

(2) A property owner shall remove or repair graffiti on his or her property no later than seven (7) business days after the Green Bay Police Department, or its agent, mails a written notice to remove such graffiti to the property owner's last-known address.

(3) If a property owner fails to remove or repair any graffiti in violation of sub. (2), the City of Green Bay, or its agents, shall have the graffiti removed or repaired, and the owner of such property shall be liable for all costs, fees and expenses resulting from such removal or repair.

(4) A property owner who is found liable under sub. (3) may appeal such a determination to the Green Bay Parks Committee no later than thirty (30) days after the bill for services is mailed by the City of Green Bay or its agent. If the Parks Committee determines that the property owner was unable to remove the graffiti in accordance with sub. (2) due to circumstances outside the property owner's control, the Committee shall waive the property owner's liability under sub. (3). Chapter 68, Wisconsin Statutes, shall not apply to this appeal procedure.

SECTION 3. Section 28.205(14), Green Bay Municipal Code, is created as follows:

28.205 **PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.**

The following acts, omissions, places, conditions, and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety within the provisions of this chapter.

(14) Any phrase or symbol intentionally marked, drawn or written with paint, ink or another substance on or intentionally etched into the physical property of another which has not been removed within seventy-two (72) hours after written notice was served upon the owner by the Green Bay Police Department, Green Bay Inspection Department, or their agents.

SECTION 4. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 5. This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin this 2nd day of February, 2010.

APPROVED:

/s/ James J. Schmitt

Mayor

ATTEST:

/s/ Chad J. Weininger

Clerk

TSW:bc

First Reading: 11/03/09

Effective Date: 2/6/10